IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

Crl.MC.No. 143 of 2007()

AGAINST THE ORDER IN RENUMBERED LP 2/2003 IN CC.449/1999 of JUDL.MAGISTRATE OF FIRST CLASS COURT, MANNARKAD

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PETITIONER: ACCUSED

T.A.SALIM, S/O. ABDU RAHIMAN,
SHAHIM TRAVELS, CHILAMBUKKADAN BUILDINGS,
RESIDING AT THRIPPUNITHURA HOUSE,
MEPARAMBU, PALAKKAD.

BY ADV. SRI.VINOD KUMAR.C

RESPONDENTS: RESPONDENT

STATE, REPRESENTED BY
S.I. OF POLICE, MANNARKKAD, THROUGH
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SMT. LATHA

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 17/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 143 of 2007

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Dated this the 17th day of January, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 420 I.P.C. The case was initially registered as C.C.No.449 of 1999. Consequent to the non-availability of the petitioner, the case against him was transferred to the list of long pending cases and is now pending before the learned Magistrate as L.P. 2 of 2003.

2. The petitioner now wants to surrender before the learned Magistrate. The learned counsel for the petitioner submits that the petitioner has valid reasons to explain why he could not appear before the learned Magistrate earlier. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these circumstances prayed that appropriate directions may be issued to release the petitioner on bail when he appears and applies for bail.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned

Magistrate. I have no reason to assume that the learned Magistrate would not consider the application for bail on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This Crl.M.C. is accordingly dismissed, but subject to the above observations/directions. I may hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself unless there are compelling reasons.

(R. BASANT)
Judge

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